

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Charles A. Jackson and Linda R. Jackson,

Plaintiffs,

vs.

Carlos S. Huesca, Jonathon Best, Angeline
R. Huesca, Emilie C. Huesca, and Fender
Mender of Goose Creek, LLC,

Defendants.

Civil Action No. 2:17-3071-BHH

ORDER AND OPINION

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Mary Gordon Baker, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On November 27, 2018, Magistrate Judge Baker issued a Report and Recommendation (“Report”) recommending that Defendants Carlos S. Huesca, Jonathon Best, Angeline R. Huesca, and Emilie C. Huesca’s (collectively, “Individual Defendants”) Motions to Dismiss the Amended Complaint (ECF Nos. 31 & 50) be granted, and Defendant Fender Mender of Goose Creek, LLC’s (“Fender Mender”) Motion to Dismiss for Failure to State a Claim (ECF No. 51) be granted. (See ECF No. 59.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with

instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made.

Petitioner filed no objections and the time for doing so expired on December 14, 2018. In the absence of objections to the Magistrate Judge's Report, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that the Individual Defendants' Motions to Dismiss the Amended Complaint (ECF Nos. 31 & 50) and Fender Menders' Motion to Dismiss for Failure to State a Claim (ECF No. 51) should be granted.

Accordingly, the Report and Recommendation (ECF No. 59) is adopted and incorporated herein by reference. The aforementioned motions to dismiss are GRANTED, and the Individual Defendants are dismissed from this action. Plaintiffs' claim pursuant to the Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq., is dismissed with prejudice. Plaintiffs' only surviving claim is their disability discrimination claim against Fender Mender, pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. This action is recommitted to the Magistrate Judge for further pretrial proceedings consistent with this Order.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

January 8, 2019
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.